

Pg 1 of 9  
**ADORNO & YOSS**

A LIMITED LIABILITY PARTNERSHIP  
350 EAST LAS OLAS BOULEVARD, SUITE 1700  
FORT LAUDERDALE, FLORIDA 33301-4217  
PHONE: (954) 763-1200, FAX: (954) 766-7800  
WWW.ADORNO.COM

JAN DOUGLAS ATLAS

EMAIL: JDA@ADORNO.COM

January 5, 2010

**VIA CERTIFIED MAIL AND FACSIMILE**

Mr. Irving H. Picard, Trustee  
c/o Baker & Hostetler LLP  
Attn: Claims Department  
45 Rockefeller Plaza  
New York, NY 10111

**Re: Bankruptcy Case No. 08-1789 (BLR) / Opposition to Trustee's Denial  
of Claim Filed by Levinson Enterprises, L.P. / Claim No. 3613**

Dear Mr. Picard:

This letter is in opposition to the Notice of Trustee's Determination of Claim dated December 8, 2009, denying the claim of Levinson Enterprises, L.P. ("Claimant") pursuant to the Securities Investor Protection Act, 15 U.S.C. 78aaa, *et seq.* ("SIPA").

SIPA "is remedial legislation. As such it should be construed liberally to effect its purpose." *In re First State Securities Corp.*, 34 B.R. 492, 496 (Fla. 1983) (quoting *Tcherepnin v. Knight*, 389 U.S. 332 (1967)). "The purpose is the protection of the insolvent brokers' customers." *Id.* at 496. In *Securities and Exchange Commission v. F. O. Baroff Co., Inc.*, 497 F.2d 280 (2d Cir. 1974) [hereinafter, "*F. O. Barroff Co.*"], the Second Circuit gave a detailed analysis of SIPA's legislative history and intent. *Id.* at 281. Specifically, the court stated that:

[t]he object of that statute, and the function of the Securities Investor Protection Corporation (SIPC) it created, is to protect the public customers of securities dealers from suffering the consequences of financial instability in the brokerage industry...Once a broker or dealer is found to be on the brink of collapse or in danger of failing to meet its obligations to its customers, a trustee is appointed for liquidation of the business. The firm's [sic] clients are cushioned (within limits) from personal loss through a special fund collected by SIPC from all securities dealers registered under the 1934 Securities Exchange Act...But the Securities Investor Protection Act allows only those who meet its definition of a 'customer' to share in this assurance.

Mr. Irving H. Picard  
January 5, 2010  
Page 2

*F. O. Baroff Co.*, 497 F.2d at 281. Citing the House of Representatives, the court went on to state that “[t]he primary purpose of [SIPA] is to provide protection for investors if the broker-dealer with whom they are doing business encounters financial troubles.” *Id.* at 283. In furtherance of SIPA, SIPC, “an independent corporation established by Congress,” was created, “to reestablish[] confidence in the securities markets” by “protect[ing] investors from the effects of chronic instability in the securities industry.” *Massachusetts Financial Services, Inc. v. Securities Investor Protection Corp.*, 411 F. Supp. 411, 412-13 (D.C. Mass. 1976). SIPC’s “prime responsibility [is] to establish...a substantial reserve fund which...provide[s] protection to investors in the event a brokerage firm collapse[s].” *Id.* at 413.

SIPA defines the term “customer” of a debtor as:

**any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral security, or for purposes of effecting transfer. The term “customer” includes any person who has a claim against the debtor arising out of sales or conversions of such securities, and any person who has deposited cash with the debtor for the purpose of purchasing securities...**

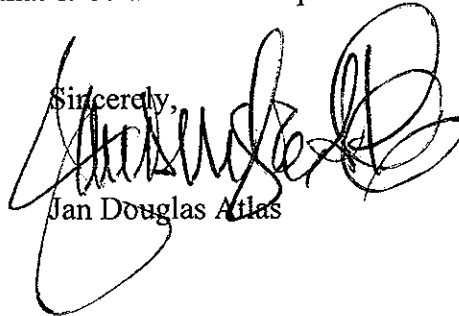
15 U.S.C.A. § 7811(2) (emphasis added).

The United States District Court for the Southern District of New York further discussed the definition of the term “customer” in *Securities and Exchange Commission v. Kenneth Bove & Co., Inc.*, 378 F. Supp. 697 (S.D.N.Y. 1974) [hereinafter “*Kenneth Bove & Co.*”]. The court found that in order to be considered a “customer” under SIPA, “the claimant must have entrusted his securities to the debtor in liquidation,” and have been “on account of securities received, acquired, or held by the debtor.” *Id.* at 699. Claims pursuant to SIPA are “grounded on possession of identifiable securities by the broker.” *Id.* Under SIPA, **“the preferential protection is accorded to a person who can trace and identify the...funds in the hands of the stockbroker.”** *Id.* (emphasis added).

In this case, Claimant’s funds are traceable and can be identified as being in the direct control of Bernard L. Madoff Investment Securities LLC. Claimant transferred and placed the amount of \$500,000.00 (the “Investment”) with Emerald Asset Advisors, LLC which purchased with the Investment a limited partnership interest in the Rye Select Broad Market Fund, LP (“Rye Fund”) under the authority of the Rye Fund’s General Partner, Tremont Partners, Inc. (“Tremont Partners”), a subsidiary of Tremont Group Holdings, Inc. Attached hereto are copies of supporting documents evidencing the Investment in the limited partnership interest (the “Securities”). Tremont Partners placed all of the assets of the Rye Fund with Bernard L. Madoff Investment Securities LLC. The final account statement, attached hereto, reflects Securities {KCARDOSO/216613.0001/N0804169\_1}

Mr. Irving H. Picard  
January 5, 2010  
Page 3

owed to Claimant in the amount of \$568,356.88. Claimant is clearly a "customer" under SIPA and should be afforded its protection. The fact that Claimant's funds were not given directly from Claimant to Bernard L. Madoff Investment Securities LLC is of no consequence. As an investor, Claimant should be protected from the effects of the instable securities industry and, more specifically, the collapse of Bernard L. Madoff Investment Securities LLC, in which Claimant's assets were invested through its agents, Emerald Asset Advisors, LLC, The Rye Fund, and Tremont Partners. To deny Claimant's claim would directly contravene the legislative intent of SIPA. Accordingly, Claimant respectfully requests that the denial of its claim be reversed; that its claim be granted; and that it be afforded the protection to which it is entitled pursuant to SIPA.

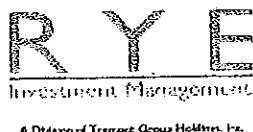
Sincerely,  
  
Jan Douglas Atlas

JDA/cab  
Enclosure

cc: United States Bankruptcy Court  
for the Southern District of New York (by mail only)

Levinson Enterprises, L.P.

{KCARDOSO/216613.0001/N0804169\_1}



BNY ALTERNATIVE INVESTMENT  
SERVICES, INC.  
101 Barclay Street  
20th Floor West  
New York, New York 10286  
USA

Levinson Enterprises, L.P.  
c/o Levinson Jewelers  
Mark and Robin Levinson  
8138 W. Broward Blvd.  
Plantation, FL 33324  
USA

## CLIENT STATEMENT

A/C Number: 00-1200-700015122  
Period Beginning: 01-Nov-2008  
Period Ending: 30-Nov-2008  
Fax Number:  
E-Mail:

PERFORMANCE SUMMARY		
Security	% Change	
	Period to Date	Year to Date
Rye Select Broad Market Fund, LP	1.71%	7.38%

PERIOD ACTIVITY					
Security	Net Opening Capital	Contribution	Net Income / (Loss)	Withdrawals / Trans / ReReg	Net Closing Capital
Rye Select Broad Market Fund, LP	558,826.62	0.00	9,530.26	0.00	568,356.88
Totals	558,826.62	0.00	9,530.26	0.00	568,356.88

DISCLOSURE NOTES	
<ul style="list-style-type: none"> <li>• % Change results are Net of all fees.</li> <li>• Year To Date change is based on Calendar Year which ends on December 31st.</li> <li>• All values are in USD.</li> <li>• This information is not intended to be used for tax reporting or planning.</li> <li>• This information is unaudited. Audited statements are issued upon conclusion of the fiscal year end audit.</li> <li>• The Fund's net asset value has been calculated on the basis of market value information with respect to the Fund's portfolio obtained from third parties, including independent pricing vendors, the Fund's manager and administrators of funds in which the Fund may have invested. BNY-AIS does not give any assurances with respect to the accuracy of such market value information.</li> <li>• Past performance as described herein is not necessarily indicative of future results.</li> <li>• The Bank of New York acts as custodian with respect to cash. With respect to the portfolio's investments, such investments have been and will continue to be custodied for the benefit of the portfolio at Bernard L. Madoff Investment Securities LLC, 885 Third Avenue, New York, NY, 10022.</li> <li>• Additional information is available at <a href="http://www.ryeselectfunds.com">www.ryeselectfunds.com</a>.</li> </ul>	

INVESTOR INQUIRIES			
Telephone: 212.815.4090	Facsimile: 212.644.6669	Email: <a href="mailto:AISOnline_NY@bankofny.com">AISOnline_NY@bankofny.com</a>	Web: <a href="http://www.fundadmin.com">www.fundadmin.com</a>

As you requested copies of this statement have been sent to:

Allan Budelman  
Denise Karp  
Ms. Pamela Palmer

## Online Account Statements



Investor : Mark & Robin Levinson  
Company Name :  
Account Type : Partnership

Address : Levinson Enterprises, L.P.  
Levinson Jewelers  
8138 W. Broward Blvd.  
Plantation, FL 33324

### Account Summary (Year-To-Date)

Statement Date: April, 30 2007

Portfolio Name	Value at Apr 30, 2007	Net Cont./With.	Net Return	Value at Apr 30, 2007	ROR(%)
Rye Select Broad Market Fund, L.P.	\$0	\$500,000	\$4,995	\$504,995	1
Relationship Total	\$0	\$500,000	\$4,995	\$504,995	

### Current Activity

Portfolio Name	Value at Apr 01, 2007	Contributions	Withdrawals	Value at Apr 30, 2007
Rye Select Broad Market Fund, L.P.	\$0	\$500,000	\$0	\$504,995
Relationship Total	\$0	\$500,000	\$0	\$504,995

charles SCHWAB  
INSTITUTIONAL

## Wire Transfer Letter of Authorization

Page 1 of 2

**Investment Advisor ("IA") Information (This portion to be completed by IA.)**

IA Firm Name (please print): EMERALD ASSET ADVISORS LLC

IA Master Account Number: 8962470

Service Team: IST 2

- The wire transfer fee is \$25. For foreign wires, contact your Investment Advisor for specific information required.
- Note: Distribution forms are required for retirement accounts. Call your Investment Advisor for the correct form.

**1. One-Time or Standing Instructions (Select A or B.)**

A. ☒ One-time \$ 250,000.00  
Amount to be Wired (in U.S. Dollars)

B. ☐ Standing Instructions Authorization (optional)

Please initial below only if you want your IA to initiate wire transfers to accounts of unlike registration.

You may revoke this authorization by notifying Schwab. If more than one person is listed on the account, each account holder must initial the authorization granted below. (An X is not sufficient)

**Standing Instructions.** I authorize Schwab to transfer funds from this account to the receiving bank name on this form at the direction of my IA. I have previously granted my IA disbursement authority on this Schwab account. I hereby acknowledge that this authority is effective regardless of any differences in registration between these two accounts.

Account Holder/ Trustee/Custodian/ Executor	Additional Account Holder/Co-Trustee/ Co-Custodian/ Co-Executor	\$ _____ Amount Requested Today (in U.S. Dollars)	\$ _____ Maximum Amount for Future Wires (in U.S. Dollars)	_____ Date Instructions Expire (mm/dd/yyyy)
---	--	--	---	--

**2. Schwab Account Information**

Levinson Enterprises LP

7038-1860

Account Holder Name(s) (as they appear on your statement)

Schwab Account Number

**3. Receiving Bank Information (For examples, see Section 5.)**

\$ 250,000.00

Amount to Be Wired (in U.S. Dollars)

If Foreign Wire in Currency Other Than U.S. Dollars, Indicate Currency Type and Amount

Bank of New York

Receiving Bank Name

Receiving Bank Phone Number

021000018

One Wall Street New York, NY 10286

Receiving Bank Routing Number (ABA, IBAN or SWIFT code)

Receiving Bank Address (required for foreign bank)

8900631473

Account Number at Receiving Bank

Rye Select Broad Market Fund, LP

Name(s) on Receiving Bank Account (registration)

555 Theodore Fremd Ave Suite C-300 Rye, NY 10580

Address of Account Holder at Receiving Bank if Different from Schwab Account Registration (example: Brokerage Firm/Escrow Company)

Further Credit/Escrow Account Number (if applicable)

Escrow Company Phone Number

Name of Final Beneficiary (if applicable)

Address of Final Beneficiary (required if final beneficiary is different from Schwab account registration)

**4. Please Read and Sign (Signatures required.)**

**Please note:** I understand that wiring funds outside of the U.S. may take three to five business days.

I authorize Charles Schwab & Co., Inc. ("Schwab") to wire funds from my Schwab account pursuant to the above instructions. I agree to indemnify and hold harmless Schwab, its affiliates and their directors, officers, employees and agents from and against all claims, actions, costs and liabilities, including attorneys' fees, arising out of or relating to: (1) their reliance on this Letter of Authorization, and (2) Schwab's execution of IA's instructions.

**Please note:** If this is a Custodial account, I acknowledge and agree that any funds or securities transferred out of the account, and into the account of the custodian or other account, shall be used or applied solely for the benefit of the minor.

**For standing instructions only:** I understand that Schwab may accept future requests to wire funds from my account according to the above instructions. Such requests may be made by any person having signing authority with respect to my Schwab account and may be delivered orally, in person or by telephone, or may be transmitted by facsimile or delivered in a signed writing.

Signature: [Signature]  
Signature: Account Holder/Trustee/Custodian/Executor

Robin Levinson  
Print Name

Date 4/2/07  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
Signature: Additional Account Holder/Co-Trustee/Co-Custodian/Co-Executor

Print Name

Date \_\_\_\_\_  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
Signature: Investment Advisor (if applicable)

Print Name

Date \_\_\_\_\_  
(mm/dd/yyyy)

**Note:** Investment Advisor may sign only if the account holder has granted disbursement authority AND there is a final beneficiary account number whose registration is IDENTICAL to the Schwab account registration.



Transaction

**SCHWAB  
INSTITUTIONAL**

Print Close

Schwab Brokerage Account History - Account Number: 7038-1860 Account Name: LEVINSON  
ENTERPRISES LP

All Transactions from 01/31/2007 to 05/31/2007, Page 1

Date	Action	Quantity	Symbol/ CUSIP	Description	Price	Amount	Comm
05/31/2007			CMHYX	COLUMBIA CONSERVATIVE HIGH YIELD CL Z		\$59.03	
				type: ORD DIV - CASH			
05/31/2007	SELL	14,599.9000	SWFXX	SCH AMT TF MMF	1.00	\$14,599.90	
05/29/2007	BUY	9,342.7000	SWFXX	SCH AMT TF MMF	1.00	(\$9,342.70)	
05/25/2007	SELL	292.3080	EMAX	AXA ENTERPRISE MERGERS & ACQUISITIONS	13.00	\$3,800.00	
				FD CL A			
05/25/2007	SELL	1,578.4930	GRZZX	LEUTHOLD GRIZZLY SHORT FUND	4.72	\$7,450.49	
05/25/2007	SELL	1,311.4750	JAMNX	JAMES MARKET NEUTRAL FUND	12.21	\$16,013.11	
05/25/2007	BUY	890.8080	HSGFX	HUSSMAN STRATEGIC GROWTH	15.66	(\$14,000.00)	\$49.95
05/25/2007	SELL	660.3770	BMNIX	LAUDUS VALUE LONG/SHORT-INST	10.60	\$7,000.00	
05/25/2007	BUY	402.7390	GRSPX	GREENSPRING FUND	24.83	(\$10,000.00)	
05/25/2007	BUY	399.8000	RYJUX	RYDEX INVERSE GOVT LONG BOND INV CL	20.01	(\$8,000.00)	
05/25/2007	SELL	1,286.5860	LCORX	LEUTHOLD CORE INVESTMENT FUND	20.27	\$26,079.10	
05/25/2007	BUY	272.4330	COAGX	CALDWELL & ORKIN MARKET OPPORTUNITY	18.21	(\$5,000.00)	\$39.00
				FUND			
05/25/2007	BUY	316.8320	QUAGX	QUAKER STRATEGIC GROWTH CLASS A FUND	25.25	(\$8,000.00)	
05/25/2007	BUY	1,257.8620	LAALX	LEUTHOLD ASSET ALLOCATION	11.13	(\$14,000.00)	
05/25/2007	SELL	648.2980	FMAAX	FEDERATED MARKET OPPORTUNITY CLASS A	12.34	\$8,000.00	
05/25/2007	SELL	296.4720	PRPFX	PERMANENT PORTFOLIO	33.73	\$10,000.00	
05/25/2007	BUY	599.1610	SWHEX	SCHWAB HEDGED EQUITY FUND SELECT	16.69	(\$10,000.00)	
				SHARES			
05/25/2007	BUY	100.0000	SH	PROSHARES SHORT S&P 500	59.49	(\$5,958.95)	\$9.95
05/25/2007	BUY	100.0000	SRS	PROSHARES TR ULTRASHORT REAL ESTATE	86.31	(\$8,640.95)	\$9.95
05/16/2007	BUY	1,031.2500	SWFXX	SCH AMT TF MMF	1.00	(\$1,031.25)	
05/15/2007		24.7900	SWFXX	SCH AMT TF MMF		\$0.00	
				type: ORD DIV			
05/15/2007			249168CQ6	DENVER COLO CIT 4.125%10REV DUE 11/15/10		\$1,031.25	
				type: CREDIT INT			
05/11/2007		60,000.0000	SMVD	SMARTVIDEO TECH INC		\$0.00	
				type: SHRS.RECEIVED-IN			
05/01/2007	BUY	87.5400	SWFXX	SCH AMT TF MMF	1.00	(\$87.54)	
04/30/2007			EABLX	EATON VANCE FLOATING RATE FUND ADV CL		\$28.34	
				type: ORD DIV - CASH			
04/30/2007			CMHYX	COLUMBIA CONSERVATIVE HIGH YIELD CL Z		\$59.20	
				type: ORD DIV - CASH			
04/17/2007	BUY	1,000.0000	SWFXX	SCH AMT TF MMF	1.00	(\$1,000.00)	
04/16/2007		310.9000	SWFXX	SCH AMT TF MMF		\$0.00	
				type: ORD DIV			
04/15/2007			569475GF7	MARION ILL 4%08GO UTX DUE 10/15/08		\$1,000.00	
				type: CREDIT INT			
04/12/2007	SELL	17,668.6700	SWFXX	SCH AMT TF MMF	1.00	\$17,668.67	
04/11/2007			N/A	CLIENT REQUEST #0618635		(\$17,668.67)	
				type: FUNDS PAID			
04/11/2007	BUY	15,998.9900	SWFXX	SCH AMT TF MMF	1.00	(\$15,998.99)	
04/10/2007	SELL	1,620.9720	EABLX	EATON VANCE FLOATING RATE FUND ADV CL	9.87	\$15,998.99	
04/09/2007	SELL	2,889.9600	SWFXX	SCH AMT TF MMF	1.00	\$2,889.96	
04/05/2007			N/A	TO ADVISOR		(\$594.43)	
04/05/2007			N/A	TO ADVISOR		(\$2,295.53)	
04/03/2007	SELL	248,500.0000	SWFXX	SCH AMT TF MMF	1.00	\$248,500.00	
04/02/2007			N/A	WIRED FUNDS DISBURSED		(\$250,000.00)	
				type: WIRED FUNDS OUT			
04/02/2007			N/A	WIRED FUNDS FEE		(\$25.00)	
				type: SERVICE FEE			
04/02/2007	BUY	252.3200	SWFXX	SCH AMT TF MMF	1.00	(\$252.32)	
04/01/2007			9430795F6	WAUKESHA WIS 4.3%09GO UTX DUE 10/01/09		\$967.50	
				type: CREDIT INT			
04/01/2007			9430794Z3	WAUKESHA WIS 4.3%09GO UTX DUE 10/01/09		\$107.50	
				type: CREDIT INT			
04/01/2007			803319AH5	SARASOTA CNTY FLA 4.5%07REV DUE 10/01/07		\$450.00	
				type: CREDIT INT			

29-2007 13:02

PWA

P.02

**Levinson Enterprises, LP**

Robin Levinson,  
1100 SE 4<sup>th</sup> Street  
Fort Lauderdale, FL 33301

March 28, 2007

Mellon Private Wealth Management  
1111 Brickell Avenue, 30<sup>th</sup> floor  
Miami, FL 33131

Attention: Dan Brea

Please accept this letter as a request for the following wire transfer from: (Transfer April 2<sup>nd</sup>, 2007)

Account Name: Levinson Enterprises, LP  
Account Number: 1052-3851-000  
In the amount of: \$ 250,000.00

Wire to: Bank of New York  
One Wall Street  
New York, New York 10286  
ABA # 021-000-018

For Credit To: Rye Select Market Fund, LP  
Account Number: 890-0631-473  
For Further Credit To: Levinson Enterprises, LP

Your prompt attention to this matter would be greatly appreciated. Should you have any questions, please contact Jessica de la Reza at 954 712 8894.

Sincerely,



Robin Levinson



Jan 01 09 07:54p

robin levinson



## Cash Advice

BRANCH 00105  
ADMINISTRATOR: DANIEL A BREA

04/02/2007 PAYMENT FROM: 10523051000 INCOME: \$ .00  
LEVINSON ENTERPRISES, L.P.-INA PRINCIPAL: \$ 250,000.00-  
TOTAL: \$ 250,000.00-

LEVINSON ENTERPRISES, LLC  
C/O ROBIN LEVINSON  
8138 WEST BROWARD BOULEVARD  
PLANTATION, FL 33324

WIRE TRANSFER  
WIRE TRANSFER FUNDS TO ABA #021000018

*for Madeo*